UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,491	12/04/2000	Hua Chen	SOM920000009US1	6533

59559   7590   07/24/2008
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ART UNIT	PAPER NUMBER
2178	

MAIL DATE	DELIVERY MODE
07/24/2008	PAPER

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The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte HUA CHEN, SHU-CHU JEANE CHEN, PIERRE DARMON,
SANG Q. GUO, KEERANOOR G. KUMAR, EDWARD C. SNIBLE
and KSHITIJ M. VICHARE

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Appeal 2008-0757
Application 09/727,491
Technology Center 2100

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Decided: July 24, 2008

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Before LANCE LEONARD BARRY, ALLEN MACDONALD and
THU A. DANG, *Administrative Patent Judges.*

DANG, *Administrative Patent Judge.*

DECISION ON APPEAL

I. STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134 from a final rejection of
claims 1-6, 9-12, and 14-18. We have jurisdiction under
35 U.S.C. § 6(b).

A. INVENTION

According to Appellants, the invention relates to multi-media content creation, and more particularly, to automatic, multi-stage Rich Media Content creation using a framework based digital workflow (Spec. 1, ll. 16-18).

B. ILLUSTRATIVE CLAIM

Claim 1 is exemplary and is reproduced below:

1. A method of multi-stage creation of multimedia content, comprising the steps of:

incorporating multimedia assets into a framework as a series of related frames comprising a header frame, a thumbnail frame, a meta frame, one or more media frames and an end of sequence frame;

creating a multimedia description file in a template for formatting multimedia assets;

combining the multimedia assets and the multimedia description file in the template through a batch-processing program to create a multimedia repository file executable on a multimedia player;

storing the multimedia repository file on a shared storage device;

accessing the multimedia repository file by at least one authoring session manager for access to the multimedia assets, for creation of a modified multimedia description file in a template, and for creation of a modified multimedia repository file upon combination of the multimedia assets and the modified multimedia description file; and

for each authoring session manager, storing the modified multimedia repository file on a storage device associated with the authoring session manager, wherein the modified multimedia repository file is configured for execution on a multimedia player.

C. REJECTIONS

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Gibbon	US 6,473,778 B1	Oct. 29, 2002
		(filed Feb. 1, 1999)
Hui	US 6,654,030 B1	Nov. 25, 2003
		(filed Mar. 31, 1999)

Claims 1, 2, 6, 9-12, 14, and 18 stand rejected under 35 U.S.C. § 103(a) over the teachings Gibbon; and

Claims 3-5 and 15-17 stand rejected under 35 U.S.C. § 103(a) over the teachings of Gibbon and Hui.

We affirm.

II. ISSUES

The issues are whether Appellants have shown that the Examiner erred in concluding that

A. Claims 1, 2, 6, 9-12, 14, and 18 are unpatentable under 35 U.S.C. § 103(a) over the teachings of Gibbon.

B. Claims 3-5 and 15-17 are unpatentable under 35 U.S.C. § 103(a) over the teachings of Gibbon and Hui.

III. FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

Admitted Prior Art

1.   Appellants disclose, as prior art, "Framework for Progressive Hierarchical and Adapted Delivery On Which Media Presentation and Associated Media Method Data" directed to *HotMedia* for incorporating Rich Media in an e-business application (Spec. 1, ll. 20-24). The related application describes combining videos, stills, panorama, sound and all forms of media as Rich Media in a Multi-Media Vehicle Repository (MVR) file editable with a Rich Media Content description file, where users can create and edit the Rich Media Content and compose various raw or compressed Rich Media components using any text editor (Spec. 2, ll. 7-12).

Gibbon

2.   Gibbon discloses a method including receiving a multimedia stream, extracting text stream from the multimedia stream, receiving a portion of the media stream of the multimedia stream, and linking a portion of the enriched time-referenced text stream with the portion of the media

stream based on the time references to produce a hypermedia document (col. 2, ll. 1-7).

3. Individual video frames are extracted as digital images, portions of other media streams within the multimedia streams are also extracted, and the video frames are linked to the frame-referenced transcript based on the frame counts to produce a hypermedia document (col. 11, l. 63 to col. 12, l. 6; Fig. 6).

4. Data can be maintained on a web server (col. 13, ll. 54-55).

5. Multiple views of each program are available, each generated using a selected template. Each template specifies appearance attributes of the hypermedia document to be generated (col. 13, ll. 57-62; Fig. 9).

6. Rendering engine 902 processes the multimedia descriptors 904 and applies a template set 906 to create an HTML representation. Controlling element 908 selects the text and the template set. In addition to controlling the style of the HTML pages, the template sets determine which links to other media will be included (col. 13, l 63 to col. 14, l. 2; Fig, 9).

7. Automated multimedia authorizing tools are not meant to replace the human element and thus, the data file must be edited manually (col. 3, ll. 18-25).

IV. PRINCIPLES OF LAW

"Our analysis begins with construing the claim limitations at issue."
Ex Parte Filatov, No. 2006-1160, 2007 WL 1317144, at *2 (BPAI 2007).
"[T]he PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). "Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)).

A patentability argument directed to a claim feature which is acknowledged to be known in the prior art cannot defeat an obviousness rejection. *In re Reuning*, 2008 WL 1836711 at 3.

"Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'" *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1734 (2007).

The Supreme Court emphasized "the need for caution in granting a patent based on the combination of elements found in the prior art," and discussed circumstances in which a patent might be determined to be obvious. *KSR,* 127 S. Ct. at 1739 (citing *Graham v. John Deere Co.*, 383 U.S. 1, 12 (1966)). The Court reaffirmed principles based on its precedent that "[t]he combination of familiar elements according to known methods is

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likely to be obvious when it does no more than yield predictable results." *Id.* The operative question in this "functional approach" is thus "whether the improvement is more than the predictable use of prior art elements according to their established functions." *Id.* at 1740.

"Under the correct analysis, any need or problem known in the field and addressed by the patent can provide a reason for combining the elements in the manner claimed." *Id.* at 1742. The Court noted that "[c]ommon sense teaches . . . that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle." *KSR*, 127 S. Ct. at 1742. "A person of ordinary skill is also a person of ordinary creativity, not an automaton." *Id.*

V. ANALYSIS

Prima facie case of obviousness

Appellant argues that "no motivation or suggestion exists to modify the teachings of Gibbon" and thus "a prima facie case of obviousness has not been established" (App. Br. 7). Therefore, the specific issue is whether the Appellant has shown error in the Examiner's findings about why one of ordinary skill in the art would have incorporated a batch-processing program into the teachings of Gibbon.

The Examiner's finding of motivation to modify Gibbon beginning at page 4 of the Answer complies with the requirements of the above-noted case law. As the Examiner found, "Gibbon shows the combination of multimedia assets and the multimedia description file into one file executable on a multimedia player of the computer" (Ans. 4). In, Gibbon a rendering engine processes the multimedia (test and image) descriptor files and applies a template set for formatting the multimedia stream (FF 5-6). We thus agree with the Examiner's finding that one of ordinary skill in the art would have incorporated a batch-processing program, which is a "well known program for executing multiple files in one program," to the teachings of Gibbon, "to process many individual files into a single program" and "provide a more effective performance of the sequence of multimedia frames" (Ans. 4).

Appellants have provided no evidence that incorporating a batch processing program to the multimedia files in Gibbon was "uniquely challenging or difficult for one of ordinary skill in the art," *Leapfrog*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) nor has Appellants presented evidence that this incorporation yielded more than expected results. Rather, we find that Appellants claimed invention is simply an arrangement of the known teaching of batch processing to multimedia files. "[W]hen a patent 'simply arranges old elements with each performing the same function it had been known to perform' and yields no more than one would expect from such an

arrangement, the combination is obvious." *KSR,* 127 S. Ct. at 1740 (citing *Sakraida v. AG Pro, Inc.,* 425 U. S. 273, 282 (1976)).

Claims 1, 2, 9-11, and 14

Appellants do not provide separate arguments with respect to the rejection of claims 1, 2, 9-11, and 14. Therefore, we select independent claim 1 as being representative of the cited claims. 37 C.F.R. § 41.37(c)(1)(vii).

Appellants argue that the modified teachings of Gibbon do not disclose or suggest "the incorporation of a header frame and an end of sequence frame into a framework with one or more media frames, a thumbnail frame and a meta frame" (App. Br. 9). In the Reply Brief, Appellants admit that the use of "meta frame" and "header frame" in a frame work is "commonly known in the art" (Reply Br. 2), and assert that, since "a header frame of a framework is not simply a beginning frame of a slide show" as that of Gibbon, "Gibbon fails to teach, suggest or render obvious every element" of the claims (Reply Br. 2). Therefore, the specific issue is whether the Appellant has shown error in the Examiner's finding that the limitation of "incorporating multimedia assets into a framework as a series of related frames comprising a header frame, a thumbnail frame, a meta frame, one or more media frames and an end of sequence frame" recited in the claims is suggested by the teachings of Gibbons.

We generally agree with the Examiner's finding that Gibbon discloses and/or suggests the claimed elements on appeal beginning at page 3 of the Answer, and the Examiner's corresponding responsive arguments beginning at page 9 of the Answer.

Gibbon discloses receiving a multimedia stream and extracting a framework from the multimedia stream (FF 2-3). A rendering engine processes the multimedia (test and image) descriptor files and applies a template set for formatting the multimedia stream (FF 5-6). The data may be stored on a web server (FF 4). The data is modified/edited for quality improvement (FF 7). We agree with the Examiner that the limitations recited in the claims are suggested by such teachings of Gibbons.

Though Appellants argue that the modified teachings of Gibbon do not disclose or suggest "the incorporation of a header frame and an end of sequence frame into a framework with one or more media frames, a thumbnail frame and a meta frame" (App. Br. 9), Appellants appear to be arguing that the multimedia framework of Gibbons is different from that of the claimed invention. However, as admitted by Appellants, the use of "meta frame" and "header frame" in a frame work is "commonly known in the art" (Reply Br. 2). In fact, Appellants' own disclosure set forth that such framework is prior art, wherein videos, stills, panorama, sound and all forms of media are combined as Rich Media (FF 1). A patentability argument directed to a claim feature which is acknowledged by Appellants to be known in the prior art cannot defeat an obviousness rejection.

Appellants also argue that the modified teachings of Gibbon do not disclose or suggest "combining of multimedia assets and a multimedia description file to create a multimedia repository file executable on a multimedia player" because "[a]n HTML representation [of Gibbon] differs significantly from a multimedia repository file executable on a multimedia player" (App. Br. 10). Therefore, the specific issue is whether the Appellant has shown error in the Examiner's finding that Gibbon discloses and/or suggests a multimedia file executable on a multimedia player.

Gibbon discloses a rendering engine which processes the multimedia (test and image) descriptor files and applies a template set for formatting the multimedia stream (FF 5-6). We generally agree with the Examiner's finding that Gibbon discloses and/or suggests a multimedia file executable on a multimedia player beginning at page 4 of the Answer.

Though Appellants appear to be arguing that the HTML representation of Gibbons is not a "multimedia repository file" of the claimed invention, limitations are not to be read into the claims from the Specification. Appellants' claims simply do not place any limitation on what the "multimedia repository file" is to be, to represent, or to mean, other than that it is executable on a multimedia player. Furthermore, Appellants' own disclosure set forth that such multimedia repository file in which all forms of media are combined is prior art (FF 1). A patentability argument directed to a claim feature which is acknowledged to be known in the prior art cannot defeat an obviousness rejection.

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We thus agree with the Examiner's finding that one of ordinary skill in the art would have incorporated a batch-processing program, which is a "well known program for executing multiple files in one program," to the teachings of Gibbon, "to process many individual files into a single program" and "provide a more effective performance of the sequence of multimedia frames" (Ans. 4).

Though Appellants also argue that "Gibbon fails to disclose that a TV program created as a result of multimedia assets and a description file is stored on a shared storage device and when modified stored on a storage device associated with the authoring session manager," (App. Br. 11) Examiner found that Gibbon discloses such limitations (Ans. 4-5 and 11-12). Gibbon discloses storing the data on the web server and editing such data (FF 4 and 7). Appellants provide no argument to dispute that the Examiner has correctly shown where all these claimed elements appear in the prior art.

Accordingly, we conclude that Appellants have not shown that the Examiner erred in rejecting claim 1 (and claims 2, 9-11, and 14 that fall therewith) as being unpatentable over Gibbon. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Claims 2 and 9

As to claims 2 and 9, Appellants provide the same argument as claim 1 from which they depend, and add the argument that Gibbon also does not

disclose or suggest "injection of content into the multimedia description file by at least one other user" (App. Br. 11).

We find no deficiencies regarding Gibbon, as discussed above regarding claim 1. Furthermore, the Examiner found that Gibbon discloses such injection limitation (Ans. 6). Appellants provide no argument to dispute that the Examiner has correctly shown where this claimed element appear in the prior art. Therefore, we conclude that Appellants have not shown that the Examiner erred in rejecting claims 2 and 9 under 35 U.S.C. § 103(a) over Gibbon.

Claims 6, 12 and 18

As to claims 6, 12, and 18, Appellants provide the same argument as claims 1, 11 and 14 from which they depend, and add the argument that Gibbon also does not disclose or suggest "management of the creation of the template and the multimedia description file in stages by different users" (App. Br. 11-12).

We find no deficiencies regarding Gibbon, as discussed above regarding claim 1. Furthermore, the Examiner found that Gibbon discloses such management limitation (Ans. 6-7). Appellants provide no argument to dispute that the Examiner has correctly shown where this claimed element appears in the prior art. Therefore, we conclude that Appellants have not shown that the Examiner erred in rejecting claims 6, 12 and 18 under 35 U.S.C. § 103(a) over Gibbon.

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Claims 3-5 and 15-17

As to claims 3-5 and 15-17, Appellants provide the same argument as claims 1 and 14 from which they depend, and add the argument that Hui "fails to remedy the deficiencies of Gibbon" (App. Br. 12).

We find no deficiencies regarding Gibbon, as discussed above regarding claim 1. Therefore, we conclude that Appellants have not shown that the Examiner erred in rejecting claims 3-5 and 15-17 under 35 U.S.C. § 103(a) over Gibbon and Hui.

CONCLUSION OF LAW

(1) Appellants have not shown that the Examiner erred in finding that claims 1, 2, 6, 9-12, and 14-18 are unpatentable under 35 U.S.C. § 103(a) over the teachings of Gibbon.

(2) Appellants have not shown that the Examiner erred in finding that claims 3-5 and 15-17 are unpatentable under 35 U.S.C. § 103(a) over the teachings of Gibbon and Hui.

(3) Claims 1-6, 9-12, and 14-18 are not patentable.

DECISION

The Examiner's rejection of claims 1-6, 9-12, and 14-18 under 35 U.S.C. § 103(a) is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

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